

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re:	§	
	§	
EASTERN LIVESTOCK CO., LLC	§	Case No.: 10-93904-BHL-11
	§	
Debtor.	§	Chapter 11

**PREHEARING STATEMENT OF BYNUM RANCH COMPANY,  
BOBBY AND DEBBIE BYNUM; BILL DAVIS, INDIVIDUALLY; BILL  
DAVIS QUARTER HORSE; JOHNNY MAYO, JR.; AND FRANK POWELL**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Bynum Ranch Company; Bobby and Debbie Bynum; Bill Davis, Individually; Bill Davis Quarter Horse; Johnny Mayo, Jr.; and Frank Powell submits the following Prehearing Statement pursuant to the order of the Court dated February 17, 2011.

**1. (a) Summary of the factual background**

On November 4, 2010, 196 steers weighing a total of approximately 146,549 pounds and 108 heifers weighing a total of approximately 75,617 pounds were loaded onto five trucks at Midwest Feedyards in San Angelo, Texas and transported to Friona Feedyard in Friona, Parmer County, Texas under the direction of Friona Industries, L.P. The ownership interests in these cattle are as follows:

Bynum Ranch Company	103.5 steers
Frank Powell	39.5 steers
Bobby and Debbie Bynum	14 steers
Bill Davis	19 steers
Davis Quarter Horse	20 steers
<b>Total steers</b>	<b>196</b>

Bynum Ranch Company	53 heifers
Bobby and Debbie Bynum	10 heifers
Bill Davis	11 heifers
Davis Quarter Horse	14 heifers
<u>Johnny Mayo, Jr.</u>	<u>20 heifers</u>
<b>Total heifers</b>	<b>108</b>

At the time of the shipment, the above producers/owners were advised directly or indirectly that the cattle were being shipped to Friona Industries, L.P. and that Friona Industries was purchasing the cattle and would issue payment directly to the producers/owners for the cattle. Eastern Livestock Co., LLC did not enter into any written contract with the producers/owners for the purchase of the cattle, Eastern Livestock Co., LLC did not ever take possession of the cattle, Eastern Livestock Co., LLC did not ever issue checks, drafts, or any other form of payment to the producers/owners for the cattle, and Eastern Livestock Co., LLC expressly represented that the subject cattle could not and would not be paid for by Eastern Livestock Co., LLC.

**(b) Summary of legal contentions**

Bynum Ranch Company, et. al. contend that there exists no binding contractual relationship between these producers/owners and Eastern Livestock Co., LLC which would give rise to any claim of an interest in the subject cattle by Eastern Livestock Co., LLC. Bynum Ranch Company et. al. further contend that Eastern Livestock Co., LLC does not fall within the definition of a purchaser or good faith purchaser of the subject cattle and that Eastern Livestock Co., LLC has never acquired any ownership or other legal interest in the subject cattle which would allow any security interest of Fifth Third Bank, First Republic Bank or any other financier to attach to the cattle or the proceeds from the sale of the cattle.

**2. List of witnesses and exhibits to be presented**

WITNESS

Randy Lloyd  
2452 Private Road 2821  
Ballinger, Texas  
(325) 786-2743

EXHIBITS

“Exhibit A” attached to the “Complaint in the Nature of Interpleader” filed by Friona Industries, LP in Cause No. 2:10-cv-00266-J filed in the United States District Court for the Northern District of Texas

**3. Summary of testimony by the witness**

In addition to the factual assertions set out in paragraph 1 above, Mr. Lloyd will testify that Eastern Livestock, LLC did not arrange for, contract for or pay for the trucking services by which the cattle in question were transported to Friona Feedyard on November 4, 2011. Mr. Lloyd will also testify that the cattle identified as belonging to BBL Cattle in Exhibit A to the interpleader petition filed by Friona Industries, LP in Cause No. 2:10-cv-00266-J filed in the United States District Court for the Northern District of Texas are the same cattle as identified in paragraph 1(a) of this pleading.

Respectfully submitted,

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Counsel for Bynum Ranch Co.; Bobby and Debbie Bynum;  
Bill Davis, Individually; Bill Davis Quarter Horse; Johnny  
Mayo, Jr.; and Frank Powell

By: /s/ James B. Johnston

James B. Johnston

Texas State Bar No. 10838200

**CERTIFICATE OF SERVICE**

I hereby certify that on February 25, 2011, a copy of the foregoing Prehearing Statement was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system:

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I further certify that on February 25, 2011, a copy of the foregoing Prehearing Statement was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

**Eastern Livestock Co., LLC**  
135 W. Market Street  
New Albany, IN 47150

**Kentucky Cattlemen's Association**  
176 Pasadena Drive  
Lexington, KY 40503-2900

**National Cattlemen's Beef Association**  
c/o Alice Devine  
6031 SW 37<sup>th</sup> St.  
Topeka, Kansas 66610

/s/ James B. Johnston  
James B. Johnston

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Seller	Claimant	FI PO Number	Head ct	PW	\$/cwt	Sex	Net Invoice
Eastern Livestock	Alan Dietrich	22293	72	48647	\$ 119.31	S	\$ 55,880.74
Eastern Livestock	Athens Livestock, TN	22292	59	49110	\$ 105.72	H	\$ 50,149.09
Eastern Livestock	BBL Cattle	22292	108	75617	\$ 111.00	H	\$ 80,694.87
Eastern Livestock	BBL Cattle	22293	196	146549	\$ 116.43	S	\$ 164,747.00
Eastern Livestock	Blue Grass Stockyards	22528	69	50054	\$ 113.55	S	\$ 54,766.22
Eastern Livestock	Blue Grass Stockyards	22292	95	61887	\$ 112.96	H	\$ 67,057.56
Eastern Livestock	C&M Cattle	22292	69	43291	\$ 113.92	H	\$ 47,247.11
Eastern Livestock	Diamond B Ranch	22896	60	48402	\$ 108.72	S	\$ 52,622.65
Eastern Livestock	Diamond B Ranch	22896	63	48539	\$ 106.20	H	\$ 51,548.42
Eastern Livestock	East Tenn. Livestock	22292	65	48976	\$ 108.88	H	\$ 51,375.07
Eastern Livestock	East Tenn. Livestock	22528	66	48417	\$ 113.19	S	\$ 52,823.20
Eastern Livestock	Eastern Livestock	22292	72	46960	\$ 112.92	H	\$ 50,867.23
Eastern Livestock	Eastern Livestock	22528	68	51110	\$ 112.47	S	\$ 55,443.42
Eastern Livestock	Eastern Livestock	22529	71	51610	\$ 106.07	H	\$ 52,612.73
Eastern Livestock	Eastern Livestock	22529	63	49420	\$ 103.79	H	\$ 49,403.02
Eastern Livestock	Eastern Livestock	22528	59	44825	\$ 112.15	S	\$ 48,501.24
Eastern Livestock	Eastern Livestock	22292	108	60567	\$ 116.56	H	\$ 67,356.90
Eastern Livestock	Eddie Eickie	22293	64	48255	\$ 116.19	S	\$ 54,147.49
Eastern Livestock	Gabriel Moreno	22895	160	111285	\$ 100.00	H	\$ 111,285.00
Eastern Livestock	Gabriel Moreno	22903	137	99450	\$ 106.57	S	\$ 105,983.87
Eastern Livestock	K&K Farms	22528	65	45562	\$ 114.51	S	\$ 50,223.05
Eastern Livestock	Mosley Cattle	22292	140	92767	\$ 112.48	H	\$ 100,144.32
Eastern Livestock	Mosley Cattle	22529	67	47981	\$ 106.51	H	\$ 49,094.56
Eastern Livestock	Mosley Cattle	22529	70	50372	\$ 106.35	H	\$ 51,470.62
Eastern Livestock	Mosley Cattle	22292	75	48262	\$ 113.28	H	\$ 52,421.19
Eastern Livestock	Southeast Livestock	22529	84	48206	\$ 112.19	H	\$ 51,562.31
Eastern Livestock	Superior L/S	21768	72	41703	\$ 107.10	H	\$ 43,628.91
Eastern Livestock	Superior L/S	21493	68	39847	\$ 117.49	H	\$ 44,776.24
Eastern Livestock	Superior L/S	21921	72	45394	\$ 115.16	H	\$ 50,117.13
Eastern Livestock	Superior L/S	22293	77	47540	\$ 121.67	S	\$ 55,531.92
Eastern Livestock	Superior L/S	21894	90	43388	\$ 121.19	S	\$ 49,880.12
Eastern Livestock	Superior L/S	22292	80	43728	\$ 117.12	H	\$ 48,814.23
Eastern Livestock	Superior L/S	22529	195	140742	\$ 106.27	H	\$ 143,716.52
Eastern Livestock	Superior L/S	22292	150	90003	\$ 115.00	H	\$ 99,003.45
Eastern Livestock	Superior L/S	22293	195	150612	\$ 115.47	S	\$ 168,061.68
Eastern Livestock	Superior L/S	22293	68	48971	\$ 117.55	S	\$ 55,525.41
Eastern Livestock	Superior L/S	22292	79	48368	\$ 114.52	H	\$ 53,021.03
Eastern Livestock	Turner Co. Stockyds	22292	69	48049	\$ 111.16	H	\$ 51,341.27

TOTAL DEPOSIT

\$ 2,542,846.79

EXHIBIT "A"